

APPEAL NO. 040168
FILED MARCH 3, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 15, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) reached maximum medical improvement (MMI) on September 4, 2002, with a 10% impairment rating (IR) as certified in an amended report by the designated doctor chosen by the Texas Workers' Compensation Commission (Commission). The claimant appeals the hearing officer's decision, contending that the designated doctor did not sufficiently respond to a request for clarification. The respondent (carrier) asserts that the evidence supports the hearing officer's decision.

DECISION

Affirmed.

Sections 408.122(c) and 408.125(c) provide that the report of the designated doctor has presumptive weight, and the Commission shall base its determination of MMI and IR on the designated doctor's report unless the great weight of the other medical evidence is to the contrary. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) provides that the designated doctor's response to a Commission request for clarification has presumptive weight as it is part of the doctor's opinion. Although the claimant is not satisfied with the designated doctor's response to the Commission's request for clarification, the designated doctor did respond to the request and explained why he believed the 10% IR was the appropriate IR to be assigned to the claimant. The designated doctor did not change the MMI date he had initially certified. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision that the claimant reached MMI on September 4, 2002, with a 10% IR as certified by the designated doctor in his amended report is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge